

# 10

## Provisions for Filing of Return of Income

### Learning Objectives

After studying this chapter, you would be able to understand –

- ◆ what is a “return of income”
- ◆ who are the persons who have to compulsorily file a return of income
- ◆ what is the due date for filing return of income for different assessees
- ◆ what are the consequences of late filing of return
- ◆ whether a return of income can be revised
- ◆ what are the particulars required to be furnished with the return
- ◆ who are the persons required to apply for permanent account number
- ◆ what are the transactions in respect of which quoting of permanent account number is mandatory
- ◆ who are authorised to sign the return of income

### 1. Return of Income

The Income-tax Act, 1961 contains provisions for filing of return of income. Return of income is the format in which the assessee furnishes information as to his total income and tax payable. The format for filing of returns by different assessees is notified by the CBDT. The particulars of income earned under different heads, gross total income, deductions from gross total income, total income and tax payable by the assessee are generally required to be furnished in a return of income. In short, a return of income is the declaration of income by the assessee in the prescribed format.

### 2. Compulsory filing of return of income [Section 139(1)]

- (1) As per section 139(1), it is compulsory for companies and firms to file a return of income or loss for every previous year on or before the due date in the prescribed form.
- (2) In case of a person other than a company or a firm, filing of return of income on or before the due date is mandatory, if his total income or the total income of any other person in

respect of which he is assessable under this Act during the previous year exceeds the basic exemption limit.

(3) Every resident and ordinarily resident having –

- (i) any asset (including financial interest in any entity) located outside India or
- (ii) signing authority in any account located outside India

is required to file a return of income in the prescribed form compulsorily, whether or not he has income chargeable to tax.

(4) All such persons mentioned in (1), (2) & (3) above should, on or before the due date, furnish a return of his income or the income of such other person during the previous year in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed.

(5) Further, every person, being an individual or a HUF or an AOP or BOI or an artificial juridical person -

- whose total income or the total income of any other person in respect of which he is assessable under this Act during the previous year
- without giving effect to the provisions of Chapter VI-A
- exceeded the basic exemption limit.

is required to file a return of his income or income of such other person on or before the due date in the prescribed form and manner and setting forth the prescribed particulars.

The basic exemption limit is **₹ 2,50,000** for individuals/HUFs/AOPs/BOIs and artificial juridical persons, **₹ 3,00,000** for resident individuals of the age of 60 years but less than 80 years and **₹ 5,00,000** for resident individuals of the age of 80 years or more at any time during the previous year. These amounts denote the level of total income, which is arrived at after claiming the admissible deductions under Chapter VI-A. However, the level of total income to be considered for the purpose of filing return of income is the income before claiming the admissible deductions under Chapter VI-A.

(6) 'Due date' means -

(a) 30th September of the assessment year, where the assessee, other than an assessee referred to in clause (aa), is -

- (i) a company,
- (ii) a person (other than a company) whose accounts are required to be audited under the Income-tax Act, 1961 or any other law in force; or
- (iii) a working partner of a firm whose accounts are required to be audited under the Income-tax Act, 1961 or any other law for the time being in force.

(aa) 30<sup>th</sup> November of the assessment year, in the case of an assessee who is required to furnish a report referred to in section 92E.

(b) 31st July of the assessment year, in the case of any other assessee.

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*Note – Section 92E is not covered within the scope of syllabus of IPCC Paper 4: Taxation. Section 139(1) has been amended to provide a different due date for assessee who have to file a transfer pricing report under section 92E (i.e. assessee who have undertaken international transactions). Therefore, reference has been made to this section i.e. section 92E for explaining the amendment in section 139(1).*

### 3. Interest for default in furnishing return of income [Section 234A]

- (1) Interest under section 234A is attracted for failure to file a return of income on or before the due date mentioned above i.e. interest is payable where an assessee furnishes the return of income after the due date or does not furnish the return of income.
- (2) Simple interest @1% per month or part of the month is payable for the period commencing from the date immediately following the due date and ending on the following dates -

Circumstances	Ending on the following dates
Where the return is furnished after due date	the date of furnishing of the return
Where no return is furnished	the date of completion of assessment

- (3) The interest has to be calculated on the amount of tax on total income as determined under section 143(1) or on regular assessment as reduced by the advance tax paid and any tax deducted or collected at source.

**Note** – Section 143(1) provides that if any tax or interest is found due on the basis of a return of income after adjustment of advance tax, tax deducted at source and self-assessment tax, an intimation would be sent to the assessee and such intimation is deemed to be a notice of demand issued under section 156. If any refund is due on the basis of the return, it shall be granted to the assessee and an intimation to this effect would be sent to the assessee. Where no tax or refund is due, the acknowledgement of the return is deemed to be an intimation under section 156.

### 4. Option to furnish Return of Income to Employer [Section 139(1A)]

- (1) This section gives an option to a person, being an individual who is in receipt of income chargeable under the head "Salaries", to furnish a return of his income for any previous year to his employer, in accordance with such scheme as may be notified by the CBDT and subject to such conditions as may be specified therein.
- (2) Such employer shall furnish all returns of income received by him on or before the due date, in such form (including on a floppy, diskette, magnetic cartridge tape, CD-ROM or any other computer readable media) and manner as may be specified in that scheme.
- (3) In such a case, any employee who has filed a return of his income to his employer shall be deemed to have furnished a return of income under sub-section (1).

## 5. Income-tax Return through computer readable media [Section 139(1B)]

- (1) This sub-section enables the taxpayer to file his return of income in computer readable media, without interface with the department.
- (2) It provides an option to a person (both corporate and non-corporate) required to furnish a return of his income.
- (3) Such person may, on or before the due date, furnish a return of income in accordance with such scheme as may be notified by the CBDT, in such form (including on a floppy, diskette, magnetic cartridge tape, CD-ROM or any other computer readable media) and manner as may be specified in that scheme.
- (4) Such return shall be deemed to be a return furnished under section 139(1).

## 6. Specified class or classes of persons to be exempted from filing Return of Income [Section 139(1C)]

- (1) Under section 139(1), every person has to furnish a return of his income on or before the due date, if his total income exceeds the basic exemption limit.
- (2) For reducing the compliance burden of small taxpayers, the Central Government has been empowered to notify the class or classes of persons who will be exempted from the requirement of filing of return of income, subject to satisfying the prescribed conditions.
- (3) Every notification issued under section 139(1C) shall, as soon as may be after its issue, be laid before each House of Parliament while it is in session, for a total period of thirty days. If both Houses agree in making any modification in the notification, the notification will thereafter have effect only in such modified form. If both Houses agree that the notification should not be issued, the notification shall thereafter have no effect.

## 7. Return of Loss [Section 139(3)]

- (1) This section requires the assessee to file a return of loss in the same manner as in the case of return of income within the time allowed under section 139(1).
- (2) Under section 80, an assessee cannot carry forward or set off his loss against income in the same or subsequent year unless he has filed a return of loss in accordance with the provisions of section 139(3).
- (3) A return of loss has to be filed by the assessee in his own interest and the non-receipt of a notice from the Assessing Officer requiring him to file the return cannot be a valid excuse under any circumstances for the non-filing of such return.
- (4) In particular, a return of loss must be filed by an assessee who has incurred a loss under the heads "Profits and gains from business or profession", "Capital gains", and income from the activity of owning and maintaining race horses taxable under the head "Income from other sources".

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(5) However, loss under the head "Income from house property" under section 71B and unabsorbed depreciation under section 32 can be carried forward for set-off even though return of loss has not been filed before the due date.

### 8. Belated Return [Section 139(4)]

(1) Any person who has not furnished a return within the time allowed to him under section 139(1) or within the time allowed under a notice issued under section 142(1) may furnish the return for any previous year at any time -

- (i) before the expiry of one year from the end of the relevant assessment year; or
- (ii) before the completion of the assessment,

whichever is earlier.

(2) A belated return cannot be revised. It has been held in *Kumar Jagdish Chandra Sinha v. CIT [1996] 86 Taxman 122 (SC)* that only a return furnished under section 139(1) or in pursuance of a notice under section 142(1) can be revised. A belated return under section 139(4) cannot be revised.

**Note** – Notice under section 142(1) is served by the Assessing Officer for the purpose of making an assessment -

- (i) on any person who has filed a return under section 139(1) to -
  - (a) produce or cause to be produced such accounts or documents as may be required by the Assessing Officer; or
  - (b) to furnish in writing information in the prescribed form on such points or matters as required by the Assessing Officer.
- (ii) on a person who has not filed his return within the time allowed under section 139(1) or before the end of the relevant assessment year to -
  - (a) furnish a return of his income or the income of any other person in respect of which he is assessable under the Act, in the prescribed form containing the prescribed particulars;
  - (b) produce or cause to be produced such accounts or documents as may be required by the Assessing Officer; or
  - (c) to furnish in writing information in the prescribed form on such points or matters as required by the Assessing Officer.

### 9. Return of Income of Charitable Trusts and Institutions [Section 139(4A)]

(1) Every person in receipt of income -

- (i) derived from property held under a trust or any other legal obligation wholly or partly for charitable or religious purpose; or

(ii) by way of voluntary contributions on behalf of such trust or institution must furnish a return of income if the total income in respect of which he is assessable as a representative assessee (computed before allowing any exemption under sections 11 and 12) exceeds the basic exemption limit.

(2) Such persons should furnish the return in the prescribed form and verified in the prescribed manner containing all the particulars prescribed for this purpose.

(3) This return must be filed by the representative-assessee voluntarily within the time limit. Any failure on the part of the assessee would attract liability to pay interest and penalty.

## 10. Return of Income of Political Parties [Section 139(4B)]

(1) Under this section, a political party is required to file a return of income if, before claiming exemption under section 13A, the party has taxable income.

(2) The grant of exemption from income-tax to any political party under section 13A is subject to the condition that the political party submits a return of its total income within the time limit prescribed under section 139(1).

(3) The chief executive officer of the political party is statutorily required to furnish a return of income of the party for the relevant assessment year, if the amount of total income of the previous year exceeds the basic exemption limit before claiming exemption under section 13A.

(4) The return must be filed in the prescribed form and verified in the prescribed manner setting forth such other particulars as may be prescribed by the CBDT.

(5) The provisions of the Act would apply as if it were a return required to be furnished under section 139(1).

## 11. Mandatory filing of returns by Scientific Research Associations, News Agency, Trade Unions, etc. [Section 139(4C)]

(1) It will be mandatory for the following institutions/associations etc. to file the return of income if their total income without giving effect to exemption under section 10, exceeds the basic exemption limit –

	Institution/Association etc.	Applicable section
(a)	Research association	10(21)
(b)	News agency	10(22B)
(c)	Association or institution	10(23A)
(d)	Institution	10(23B)
(e)	Fund or institution	10(23C)(iv)
(f)	Trust or institution	10(23C)(v)

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(g)	University or other educational institution	10(23C)(vi)/(iiiad)
(h)	Hospital or other medical institution	10(23C)(via)/(iiiae)
(i)	<b><i>Mutual Fund</i></b>	<b>10(23D)</b>
(j)	<b><i>Securitisation Trust</i></b>	<b>10(23DA)</b>
(k)	<b><i>Venture Capital Company / Venture Capital Fund</i></b>	<b>10(23FB)</b>
(l)	Trade Union	10(24)(b)
(m)	Body or Authority or Board or Trust	10(46)
(n)	Infrastructure Debt Fund	10(47)

(2) Such return of income should be in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed.

(3) Then, the provisions of the Act would apply as if it were a return required to be furnished under section 139(1).

## 12. Mandatory filing of returns by Universities, Colleges etc. [Section 139(4D)]

(1) It will be mandatory for every university, college or other institution referred to in clause (ii) and clause (iii) of section 35(1), which is not required to furnish its return of income or loss under any other provision of section 139, to furnish its return in respect of its income or loss in every previous year.

(2) All the provisions of the Income-tax Act, 1961 shall apply to such return as if it were a return under section 139(1).

## 13. Revised Return [Section 139(5)]

(1) If any person having furnished a return under section 139(1) or in pursuance of a notice issued under section 142(1), discovers any omission or any wrong statement therein, he may furnish a revised return at any time before the expiry of one year from the end of the relevant assessment year or before completion of assessment, whichever is earlier.

(2) It may be noted that a belated return cannot be revised. It has been held in *Kumar Jagdish Chandra Sinha v. CIT [1996] 86 Taxman 122 (SC)* that only a return furnished under section 139(1) or in pursuance of a notice under section 142(1) can be revised. A belated return furnished under section 139(4), therefore, cannot be revised.

## 14. Particulars to be furnished with the return [Section 139(6)]

The prescribed form of the return shall, in certain specified cases, require the assessee to furnish the particulars of -

(i) income exempt from tax

- (ii) assets of the prescribed nature and value and belonging to him
- (iii) his bank account and credit card held by him
- (iv) expenditure exceeding the prescribed limits incurred by him under prescribed heads
- (v) such other outgoings as may be prescribed.

## 15. Particulars to be furnished with return of income in the case of an assessee engaged in business or profession [Section 139(6A)]

The prescribed form of the return shall, in the case of an assessee engaged in any business or profession also require him to furnish -

- (i) the report of any audit referred to in section 44AB.
- (ii) the particulars of the location and style of the principal place where he carries on the business or profession and all the branches thereof.
- (iii) the names and addresses of his partners, if any, in such business or profession.
- (iv) if he is a member of an association or body of individuals,
  - (a) the names of the other members of the association or the body of individuals; and
  - (b) the extent of the share of the assessee and the shares of all such partners or members, as the case may be, in the profits of the business or profession.

## 16. Defective Return [Section 139(9)]

- (1) Under this sub-section, the Assessing Officer has the power to call upon the assessee to rectify a defective return.
- (2) Where the Assessing Officer considers that the return of income furnished by the assessee is defective, he may intimate the defect to the assessee and give him an opportunity to rectify the defect within a period of 15 days from the date of such intimation. The Assessing Officer has the discretion to extend the time period beyond 15 days, on an application made by the assessee.
- (3) If the defect is not rectified within the period of 15 days or such further extended period, then the return would be treated as an invalid return. The consequential effect would be the same as if the assessee had failed to furnish the return.
- (4) Where, however, the assessee rectifies the defect after the expiry of the period of 15 days or the further extended period, but before assessment is made, the Assessing Officer can condone the delay and treat the return as a valid return.
- (5) A return of income shall be regarded as defective unless all the following conditions are fulfilled, namely:
  - (a) The annexures, statements and columns in the return of income relating to computation of income chargeable under each head of income, computations of gross total income

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and total income have been duly filled in.

- (b) The tax, together with interest, if any, payable in accordance with the provisions of section 140A, has been paid on or before the date of furnishing of the return.
- (c) The return of income is accompanied by the following, namely:
  - (i) a statement showing the computation of the tax payable on the basis of the return.
  - (ii) the report of the audit obtained under section 44AB (If such report has been furnished prior to furnishing the return of income, a copy of such report and the proof of furnishing the report should be attached).
  - (iii) the proof regarding the tax, if any, claimed to have been deducted or collected at source and the advance tax and tax on self-assessment, if any, claimed to have been paid. (However, the return will not be regarded as defective if (a) a certificate for tax deducted or collected was not furnished under section 203 or section 206C to the person furnishing his return of income, (b) such certificate is produced within a period of 2 years).
  - (iv) the proof of the amount of compulsory deposit, if any, claimed to have been paid under the Compulsory Deposit Scheme (Income-tax Payers) Act, 1974;
- (d) Where regular books of account are maintained by an assessee, the return of income is accompanied by the following -
  - (i) copies of manufacturing account, trading account, profit and loss account or income and expenditure account, or any other similar account and balance sheet;
  - (ii) the personal accounts as detailed below -

(1)	Proprietary business or profession	The personal account of the proprietor
(2)	Firm, association of persons or body of individuals	personal accounts of partners or members
(3)	Partner or member of a firm, association of persons or body of individuals	partner's personal account in firm member's personal account in the association of persons or body of individuals

- (e) Where the accounts of the assessee have been audited, the return should be accompanied by copies of the audited profit and loss account and balance sheet and the auditor's report.
- (f) Where the cost accounts of an assessee have been audited under section 233B of Companies Act, 1956, the return should be accompanied by such report.
- (g) Where regular books of account are not maintained by the assessee, the return should be accompanied by -

- (i) a statement indicating -
  - (1) the amount of turnover or gross receipts, (2) gross profit, (3) expenses and (4) net profit of the business or profession;
  - (ii) the basis on which such amounts mentioned in (1) above have been computed,
  - (iii) the amounts of total sundry debtors, sundry creditors, stock-in-trade and cash balance as at the end of the previous year.

*Note – Many of these particulars are now required to be incorporated as part of the relevant return form, for example, details of tax deducted at source, advance tax paid, self-assessment tax paid, amount of turnover/gross receipts etc..*

## 17. Permanent Account Number (PAN) [Section 139A]

(1) Sub-section (1) requires the following persons, who have not been allotted a permanent account number (PAN), to apply to the Assessing Officer within the prescribed time for the allotment of a PAN -

- (i) Every person whose total income or the total income of any other person in respect of which he is assessable under this Act during any previous year exceeded the basic exemption limit; or
- (ii) Every person carrying on any business or profession whose total sales, turnover or gross receipts exceeds or is likely to exceed ₹ 5 lakh in any previous year; or
- (iii) Every person who is required to furnish a return of income under section 139(4A).

[Sub-section (1)].

(2) A person who has already been allotted a PAN under sub-clauses (i), (ii) or (iii) of sub-section (1), is not required to obtain another PAN under sub-clause (iv). The PAN already allotted to him shall be deemed to be the PAN in relation to fringe benefit tax.

(3) The Central Government is empowered to specify, by notification in the Official Gazette, any class or classes of persons by whom tax is payable under the Act or any tax or duty is payable under any other law for the time being in force. Such persons are required to apply within such time as may be mentioned in that notification to the Assessing Officer for the allotment of a PAN [Sub-section (1A)].

(4) For the purpose of collecting any information which may be useful for or relevant to the purposes of the Act, the Central Government may notify any class or classes of persons, and such persons shall within the prescribed time, apply to the Assessing Officer for allotment of a PAN [Sub-section (1B)].

(5) The Assessing Officer, having regard to the nature of transactions as may be prescribed, may also allot a PAN to any other person (whether any tax is payable by him or not) in the manner and in accordance with the procedure as may be prescribed [Sub-section (2)].

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(6) Any person, other than the persons mentioned in (1) to (5) above, may apply to the Assessing Officer for the allotment of a PAN and the Assessing Officer shall allot a PAN to such person immediately.

(7) The CBDT had introduced a new scheme of allotment of computerized 10 digit PAN. Such PAN comprises of 10 alphanumeric characters and is issued in the form of a laminated card.

(8) All persons who were allotted PAN (Old PAN) earlier and all those persons who were not so allotted but were required to apply for PAN, shall apply to the Assessing Officer for a new series PAN within specified time.

(9) Once the new series PAN is allotted to any person, the old PAN shall cease to have effect. No person who has obtained the new series PAN shall apply, obtain or process another PAN.

(10) Quoting of PAN is mandatory in all documents pertaining to the following prescribed transactions :

- (a) in all returns to, or correspondence with, any income-tax authority ;
- (b) in all challans for the payment of any sum due under the Act;
- (c) in all documents pertaining to such transactions entered into by him, as may be prescribed by the CBDT in the interests of revenue. In this connection, CBDT has notified the following transactions, namely:
  - (i) sale or purchase of any immovable property valued at ₹ 5 lakh or more;
  - (ii) sale or purchase of motor vehicle or other vehicle (other than two wheeled motor vehicle) which requires registration under section 2(28) of the Motor Vehicle Act, 1988;
  - (iii) a time deposit exceeding ₹ 50,000 with a banking company;
  - (iv) a deposit exceeding ₹ 50,000 in any account with Post Office Savings Bank;
  - (v) a contract for sale or purchase of securities exceeding value of ₹ 1 lakh;
  - (vi) opening a bank account;

However, in case the person making the application is a minor who does not have any income chargeable to tax, he is required to quote the PAN of his father or mother or guardian, as the case may be.

- (vii) making an application for installation of telephone connection (including cellular telephone connection);
- (viii) bill payments to hotels and restaurants exceeding ₹ 25,000 at any one time;
- (ix) payment in cash for purchase of bank drafts/pay orders/banker's cheque from a banking company for an amount aggregating ₹ 50,000 or more during any one day;
- (x) cash deposit aggregating ₹ 50,000 or more with a banking company during any one day;
- (xi) cash payment in excess of ₹ 25,000 in connection with travel to any foreign country at

any one time. Such payment includes cash payment made towards fare, or to a travel agent or a tour operator or to an authorized person as defined in section 2(c) of FEMA, 1999, or for the purchase of foreign currency. However, travel to any foreign country does not include travel to the neighbouring countries or to such places of pilgrimage as may be specified by the CBDT under *Explanation 3* to section 139(1);

- (xii) making an application to any bank or banking institution or company or any institution for issue of a credit card or debit card;
- (xiii) making an application for the following purposes involving payment of an amount exceeding ₹ 50,000 -
  - (a) for purchase of units of a mutual fund;
  - (b) for acquiring shares of a company through public issue;
  - (c) for acquiring debentures of a company or institution;
  - (d) for acquiring bonds of Reserve Bank of India.
- (xiv) payment of an amount aggregating ₹ 50,000 or more in a year as life insurance premium to an insurer;
- (xv) payment to a dealer –
  - (i) of an amount of ₹ 5,00,000 or more at any one time; or
  - (ii) against a bill for an amount of ₹ 5,00,000 or more,  
for purchase of bullion or jewellery.

(11) Every person who receives any document relating to any transaction cited above shall ensure that the PAN is duly quoted in the document.

(12) If there is a change in the address or in the name and nature of the business of a person, on the basis of which PAN was allotted to him, he should intimate such change to the Assessing Officer.

(13) Every person who receives any amount from which tax has been deducted at source shall intimate his PAN to the person responsible for deducting such tax.

(14) Where any amount has been paid after deducting tax at source, the person deducting tax shall quote the PAN of the person to whom the amount was paid in the following documents:

- (i) in the statement furnished under section 192(2C) giving particulars of perquisites or profits in lieu of salary provided to any employee;
- (ii) in all certificates for tax deducted issued to the person to whom payment is made;
- (iii) in all returns made to the prescribed income-tax authority under section 206;
- (iv) in all statements prepared and delivered or caused to be delivered in accordance with the provisions of section 200(3)[Sub-section (5B)].

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(15) The above sub-sections (5A) and (5B) shall not apply to a person who –

- (i) does not have taxable income or
- (ii) who is not required to obtain PAN

if such person furnishes a declaration under section 197A in the prescribed form and manner that the tax on his estimated total income for that previous year will be nil.

(16) The CBDT is empowered to make rules with regard to the following:

- (a) the form and manner in which an application for PAN may be made and the particulars to be given there;
- (b) the categories of transactions in relation to which PAN is required to be quoted on the related documents;
- (c) the categories of documents pertaining to business or profession in which PAN shall be quoted by every person;
- (d) the class or classes of persons to whom the provisions of this section shall not apply;

The following classes of persons are exempt from the provisions of section 139A:

- (i) persons who have agricultural income and are not in receipt of any other taxable income;
- (ii) non-residents under the Act, provided that any non-resident entering into any of the prescribed transactions shall furnish a copy of his passport.

- (e) the form and manner in which a person who has not been allotted a PAN shall make a declaration;
- (f) the manner in which PAN shall be quoted for transactions cited in (b) above;
- (g) the time and manner in which such transactions shall be intimated to the prescribed authority.

### **18. Scheme for submission of returns through Tax Return Preparers [Section 139B]**

- (1) This section provides that, for the purpose of enabling any specified class or classes of persons to prepare and furnish their returns of income, the CBDT may notify a Scheme to provide that such persons may furnish their returns of income through a Tax Return Preparer authorised to act as such under the Scheme.
- (2) The Tax Return Preparer shall assist the persons furnishing the return in a manner that will be specified in the Scheme, and shall also affix his signature on such return.
- (3) A Tax Return Preparer can be an individual, other than
  - (i) any officer of a scheduled bank with which the assessee maintains a current account or has other regular dealings.

- (ii) any legal practitioner who is entitled to practice in any civil court in India.
- (iii) a chartered accountant.
- (iv) an employee of the 'specified class or classes of persons'.

(4) The "specified class or classes of persons" for this purpose means any person other than a company or a person whose accounts are required to be audited under section 44AB (tax audit) or under any other existing law, who is required to furnish a return of income under the Act.

(5) The Scheme notified under the said section may provide for the following -

- (i) the manner in which and the period for which the Tax Return Preparers shall be authorised,
- (ii) the educational and other qualifications to be possessed, and the training and other conditions required to be fulfilled, by a person to act as a Tax Return Preparer,
- (iii) the code of conduct for the Tax Return Preparers,
- (iv) the duties and obligations of the Tax Return Preparers,
- (v) the circumstances under which the authorisation given to a Tax Return Preparer may be withdrawn, and
- (vi) any other relevant matter as may be specified by the Scheme.

(6) Every Scheme framed by the CBDT under this section shall be laid before each House of Parliament while it is in session to make the same effective.

(7) If both the houses decide in making any modification of Scheme, then the Scheme will have effect only in such modified form.

(8) Similarly, if both the Houses decide that any Scheme should not be framed, then such Scheme will thereafter be of no effect.

(9) However, such modification or annulment should be without prejudice to the validity of anything previously done under that scheme.

(10) Accordingly, the CBDT has, in exercise of the powers conferred by this section, framed the Tax Return Preparer Scheme, 2006, which came into force from 1.12.2006.

As per this scheme, Tax Return Preparer means any individual who has been issued a Tax Return Preparer Certificate and a Unique Identification Number by the Partner Organisation to carry on the profession of preparing the returns of income in accordance with the provisions of this Scheme. However, persons referred to in clause (ii) or clause (iii) or clause (iv) of sub-section (2) of section 288, namely, any officer of a Scheduled Bank with which the assessee maintains a current account or has other regular dealings, any legal practitioner who is entitled to practice in any civil court in India and an accountant are not eligible to act as Tax Return Preparers.

It may be noted that as per section 139B(3), an employee of the "specified class or classes of persons" is not authorized to act as a Tax Return Preparer. Therefore, it follows that employees of companies and persons whose accounts are required to be audited under section 44AB or any other law for the time being in force, are eligible to act as Tax Return Preparers.

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### 19. Power of CBDT to dispense with furnishing documents etc. with the return and filing of return in electronic form [Sections 139C & 139D]

- (i) Section 139C provides that the CBDT may make rules providing for a class or classes of persons who may not be required to furnish documents, statements, receipts, certificate, reports of audit or any other documents, which are otherwise required to be furnished along with the return under any other provisions of this Act.
- (ii) However, on demand, the said documents, statements, receipts, certificate, reports of audit or any other documents have to be produced before the Assessing Officer.
- (iii) Section 139D empowers the CBDT to make rules providing for –
  - (a) the class or classes of persons who shall be required to furnish the return of income in electronic form;
  - (b) the form and the manner in which the return of income in electronic form may be furnished;
  - (c) the documents, statements, receipts, certificates or audited reports which may not be furnished along with the return of income in electronic form but have to be produced before the Assessing Officer on demand;
  - (d) the computer resource or the electronic record to which the return of income in electronic form may be transmitted.

### 20. Persons authorised to verify Return of Income [Section 140]

This section specifies the persons who are authorized to verify the return of income under section 139.

	Assessee	Circumstance	Authorised Persons
1.	Individual	(i) In circumstances not covered under (ii), (iii) & (iv) below	- the individual himself
		(ii) where he is absent from India	- the individual himself; or - any person duly authorised by him in this behalf holding a valid power of attorney from the individual (Such power of attorney should be attached to the return of income)
		(iii) where he is mentally incapacitated from attending to his affairs	- his guardian; or - any other person competent to act on his behalf

		(iv) where, for any other reason, it is not possible for the individual to verify the return	<ul style="list-style-type: none"> <li>- any person duly authorised by him in this behalf holding a valid power of attorney from the individual (Such power of attorney should be attached to the return of income)</li> </ul>
2.	Hindu Undivided Family	(i) in circumstances not covered under (ii) and (iii) below	<ul style="list-style-type: none"> <li>- the karta</li> </ul>
		(ii) where the karta is absent from India	<ul style="list-style-type: none"> <li>- any other adult member of the HUF</li> </ul>
		(iii) where the karta is mentally incapacitated from attending to his affairs	<ul style="list-style-type: none"> <li>- any other adult member of the HUF</li> </ul>
3.	Company	(i) in circumstances not covered under (ii) to (v) below	<ul style="list-style-type: none"> <li>- the managing director of the company</li> </ul>
		(ii) <ul style="list-style-type: none"> <li>(a) where for any unavoidable reason such managing director is not able to verify the return; or</li> <li>(b) where there is no managing director</li> </ul>	<ul style="list-style-type: none"> <li>- any director of the company</li> <li>- any director of the company</li> </ul>
		(iii) where the company is not resident in India	<ul style="list-style-type: none"> <li>- a person who holds a valid power of attorney from such company to do so (such power of attorney should be attached to the return).</li> </ul>
		(iv) <ul style="list-style-type: none"> <li>(a) Where the company is being wound up (whether under the orders of a court or otherwise); or</li> <li>(b) where any person has been appointed as the receiver of any assets of the company</li> </ul>	<ul style="list-style-type: none"> <li>- Liquidator</li> <li>- Liquidator</li> </ul>
		(v) Where the management of the company has been taken over by the Central Government or any State Government under any law	<ul style="list-style-type: none"> <li>- the principal officer of the company</li> </ul>

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4.	Firm	(i) in circumstances not covered under (ii) below	- the managing partner of the firm
		(ii) (a) where for any unavoidable reason such managing partner is not able to verify the return; or (b) where there is no managing partner.	- any partner of the firm, not being a minor - any partner of the firm, not being a minor
5.	LLP	(i) in circumstances not covered under (ii) below	Designated partner
		(ii) (a) where for any unavoidable reason such designated partner is not able to verify the return; or (b) where there is no designated partner.	- any partner of the LLP - any partner of the LLP
6.	Local authority	-	- the principal officer
7.	Political party [referred to in section 139(4B)]	-	- the chief executive officer of such party (whether he is known as secretary or by any other designation)
8.	Any other association	-	- any member of the association or the principal officer of such association
9.	Any other person	-	- that person or some other person competent to act on his behalf.

**FEEDBACK FORM**

(1)	Name of the Student				
(2)	Registration No.				
	Contact detail with e-mail id, mobile number, etc.				
(3)	Subject & Paper No.		Paper: 4 Part-I : Income Tax		
(4)	Name of Publication		Study Material		
(5)	Edition		October, 2014 (Revised)		
(6)	Do you find the publication student-friendly?				
(7)	Do the illustrations in the Study Material assist in understanding of the provisions contained in the Study Material?				
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	Type of Error (Specify nature of error)	Chapter No. (Unit No., if applicable)	Page No.	Para No. & line of the para	Text or problem (containing the error) as per the publication
	Typographical/ Printing/ Computational/ Conceptual/ Updation				
(10)	Do you feel that the publication can be made more value additive? If so, please give your specific suggestions.				
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